

and correct to the best of the submitter's knowledge. The submitter's objection may itself be subject to disclosure under the FOIA.

(g) *Notice of Intent to Disclose Information.* FHFA will consider carefully all grounds and reasons provided by a submitter objecting to disclosure. If FHFA decides to disclose confidential commercial information over the objection of the submitter, it will provide to the submitter, at least ten (10) days before the date of disclosure, written notice containing—

(1) A statement of the reasons for not sustaining the submitter's objections to disclosure;

(2) A description of the confidential commercial information to be disclosed; and

(3) A specified disclosure date.

(h) *Notice to Requester.* FHFA will give a requester whose request encompasses confidential commercial information the following notices—

(1) At the time a Predisclosure Notification is provided to the submitter, written notice that the request encompasses confidential commercial information that may be exempt from disclosure under 5 U.S.C. 552(b)(4) and section 1202.4(a)(4) and that the submitter of the information has been given the opportunity to comment on the proposed disclosure of the information; and

(2) At the time a Notice of Intent to Disclose is provided to the submitter, a copy of the Notice of Intent to Disclose, at least days before the specified disclosure date.

(i) *Notice of FOIA Lawsuit.* FHFA will promptly notify the submitter whenever a requester files suit seeking to compel disclosure of the submitter's confidential commercial information.

§ 1202.9 How do I Appeal a Response Denying my FOIA Request?

(a) *Right of Appeal.* If FHFA denied your request in whole or in part, you may appeal the denial to: FOIA Appeals Officer, Federal Housing Finance Agency, 1700 G Street, NW., Washington DC 20552. If you use a mail, express, or courier delivery service to file your appeal, include a clear marking identifying it as a "FOIA APPEAL." You may file your appeal electroni-

cally by sending it to: foia@fhfa.gov with "FOIA Appeal" in the subject line. You may file an appeal by facsimile addressed to the attention of the FOIA Appeals Officer at (202) 414-6504, clearly identifying on the cover sheet that it is a "FOIA Appeal."

(b) *Timing, Form, Content and Receipt of an Appeal.* Your appeal must be written and submitted within 30 calendar days after you received FHFA's response denying your request. Your appeal must include a copy of the initial request, a copy of the letter denying the request in whole or in part, and a statement of the circumstances, reasons, or arguments you believe support disclosure of the requested record. FHFA will not consider an improperly addressed appeal to have been received for the purposes of the 20 days time period of paragraph (d) of this section, until it is actually received by the Appeals Officer, or would have been received by the Appeals Officer if due diligence were exercised.

(c) *Extensions of Time To Appeal.* If you need more time to file your appeal, you may request an extension of time of no more than ten (10) days in which to file your appeal, but only if your request is made within the original 30 calendar days time period for filing the appeal. The FOIA Appeals Officer has discretion to grant extensions of time to file appeals.

(d) *Final Action on Appeal.* FHFA's determination on your appeal will be in writing, signed by the FOIA Appeals Officer, and mailed within 20 days after the appeal is received or by the last day of the last extension under paragraph (e) of this section. The determination of an appeal is the final action of FHFA on a FOIA request. A determination—

(1) Affirming in whole or in part the denial of a request and including a brief statement of the reason or reasons for affirmance, including each FOIA exemption relied on.

(2) Reversing the denial of a request in whole or in part, requiring the request to be processed promptly in accordance with the determination.

(3) Remanding a request to the FOIA Officer for re-processing, stating the time limits for responding to the remanded request.

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(e) *Notice of Delayed Determinations on Appeal.* If FHFA cannot mail a determination on your appeal within the time limit, the Appeals Officer will continue to process the appeal and upon expiration of the time limit, will inform you the reason for the delay and the date on which a determination may be expected to be mailed. In this notice of delay, the FOIA Appeals Officer may request that you forebear seeking judicial review until a final determination of the appeal.

(f) *Judicial Review.* If the denial of your request for records is upheld in whole or in part, or if a determination on the appeal has not been mailed at the end of the 20 days period in paragraph (d) of this section, or the last extension thereof, you may seek judicial review under 5 U.S.C. 552(a)(4).

§ 1202.10 Will FHFA expedite my request or appeal?

(a) *Applications for Expedited Processing.* You may apply for expedited processing of an initial request or of an appeal. Your application must be in writing. FHFA will grant expedited processing, and give the request or appeal priority if your application demonstrates a compelling need for expedited processing by showing—

(1) Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual;

(2) An urgency to inform the public about an actual or alleged Federal government activity if you are a person primarily engaged in disseminating information;

(3) The loss of substantial due process or rights;

(4) A matter of widespread and exceptional media interest in which there exists possible questions about the government's integrity, affecting public confidence; or

(5) Humanitarian need.

(b) *Certification of Compelling Need.* Your application for expedited processing must include a statement certifying that the reasons you present to demonstrate a compelling need are true and correct to the best of your knowledge.

(c) *Determination on Application.* FHFA will notify you within ten (10) days of receipt of your application whether expedited processing has been granted. If your application is denied, you may appeal under section 1202.9.

§ 1202.11 What will it cost to get the records I requested?

(a) *Assessment of Fees, Generally.* FHFA will assess you for fees covering the direct costs of responding to your request and costs for duplicating records, except as otherwise provided in a statute with respect to the determination of fees that may be assessed for disclosure, search time, or review of particular records.

(b) *Assessment of Fees, Categories of Requesters.* The fees that FHFA may assess vary depending on the type of request or the type of requester you are—

(1) *Commercial Use.* If you request records for a commercial use, the fees that FHFA may assess are limited to FHFA's operating costs incurred in search time, and/or to review and duplicate records.

(2) *Educational Institution, Non-commercial Scientific Institution, Representative of the News Media.* If you are not requesting records for commercial use and you are an educational institution, a noncommercial scientific institution or a representative of the news media, the fees that FHFA may assess are limited to FHFA's costs incurred for duplication in excess of 100 pages, or an electronic equivalent of 100 pages.

(3) *Other.* If neither paragraph (b)(1) nor paragraph (b)(2) of this section applies, the fees FHFA may assess you are limited to the costs FHFA incurs in search time and review in excess of two hours and to duplicate in excess of 100 pages, or an electronic equivalent of 100 pages.

(c) *Fee Schedule.* FHFA will maintain a current schedule of fees on its Web site at: <http://www.fhfa.gov>.

(d) *Notice of Anticipated Fees in Excess of \$100.00.* When FHFA determines or estimates that the fees chargeable to you will exceed \$100.00, FHFA will notify you of the actual or estimated amount of fees you will incur, unless you earlier indicated your willingness